

ORDINANCE NO. 95 - 64

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 90-12, AS AMENDED BY ORDINANCE NO. 93-16, PROVIDING FOR ADDITIONAL CIRCUMSTANCES WHICH MAY CONSTITUTE A NUISANCE; PROVIDING FOR THE DEFINITION OF A CONTROLLED SUBSTANCE; PROVIDING FOR DELETION OF LANGUAGE LIMITING THE NUMBER OF CONSECUTIVE TERMS A BOARD MEMBER MAY SERVE; PROVIDING FOR ADDITIONAL ACTION WHICH MAY BE TAKEN BY A NUISANCE ABATEMENT BOARD; PROVIDING FOR ENFORCEMENT PURSUANT TO SECTION 120.69, FLORIDA STATUTES; PROVIDING THAT PALM BEACH COUNTY MAY SEEK REVIEW OF THE NUISANCE ABATEMENT BOARD'S ORDER IN THE CIRCUIT COURT; PROVIDING FOR THE DELETION OF LANGUAGE SUSPENDING ENFORCEMENT OF THE NUISANCE ABATEMENT BOARD'S ORDERS PENDING JUDICIAL REVIEW; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR PENALTY; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Nuisance Abatement Board was established by Ordinance No. 90-12, as amended, pursuant to Chapter 893, Florida Statutes; and

WHEREAS, Chapter 893, Florida Statutes, was amended to provide additional circumstances which may constitute a nuisance and to provide for additional actions which may be taken by a Nuisance Abatement Board; and

WHEREAS, the Board of County Commissioners desires to comply with the Legislature's intent regarding nuisances and believes that the inclusion of additional prohibited uses specified in Chapter 893, Florida Statutes, as a violation of the Palm Beach County Nuisance Abatement Ordinance No. 90-12, as amended, and additional actions which may be taken by the Nuisance Abatement Board would best serve Palm Beach County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION 1.

Section 2. A) of Ordinance No. 90-12, as amended by Ordinance No. 93-16, is hereby amended to read:

A) ~~Public nuisance.~~ Any place or premises within Palm

~~Beach County which has been used on more than two occasions within a six (6) month period as the site of the unlawful sale or delivery of controlled substances as defined in Chapter 893 of the Florida Statutes, or as the site of a violation of Section 796.07, Florida Statutes, or any place or building used by a youth and street gang for the purpose of conducting a pattern of youth and street gang activity.~~

A) Public Nuisance. Any place or premises within Palm Beach County which has been used on more than two occasions, within a six (6) month period:

1. as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance;
2. on one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
3. as the site of a violation of Section 796.07, Florida Statutes; or
4. any place or building used by a youth and street gang for the purpose of conducting a pattern of youth and street gang activity as defined in Chapter 874 of the Florida Statutes.

SECTION 2.

SECTION 2. of Ordinance No. 90-12, as amended by Ordinance No. 93-16, is hereby amended to include paragraph F) as follows:

F) Controlled Substance. Includes any substance sold in lieu of a controlled substance in violation of Section 817.563, Florida Statutes, or any imitation controlled substance defined in Section 817.564, Florida Statutes.

SECTION 3.

SECTION 3.B) 2) of Ordinance No. 90-12 is hereby amended to read:

2) Two members shall be appointed for a term of one year. Upon expiration of initial terms, subsequent appointments for two years shall be made. Any member may be reappointed by the County Commission ~~for not more than three~~ ~~(3) consecutive terms~~. Appointments to fill a vacancy shall be for the remainder of the unexpired term. Any member who fails to attend two of three successive meetings without cause and without prior approval of the Chairman shall automatically forfeit his appointment, and the Board of County Commissioners shall promptly fill such vacancy for the remainder of the term.

SECTION 4.

SECTION 5.C) and F) of Ordinance No. 90-12 are hereby amended to read:

CONDUCT OF HEARINGS.

C) After considering all evidence, the Board may declare the place or premises to be a public nuisance as defined in Section 2 (A), and may enter an order ~~immediately prohibiting as follows:~~

- 1) Immediately prohibiting the maintaining of the nuisance;
- 2) Immediately prohibiting the operating or maintaining of the place or premises ~~or~~ including the closure of the place or premises or any part thereof;
- 3) Immediately prohibiting the conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance; or
- 4) Requiring the owner of such place or premises declared to be a public nuisance to adopt such procedure as may be appropriate under the circumstances to abate any such nuisance.

* * *

F) In the event that orders of the Board expire and/or are not complied with, or are for any reason ineffective, the Board may then bring a complaint under Section 60.05 of the Florida Statutes, seeking a permanent injunction against any public nuisance described in Section 2A). An order entered hereunder may be enforced pursuant to the procedures contained in Section 120.69, Florida Statutes.

SECTION 5.

Section 7. of Ordinance No. 90-12 is hereby amended to read:

Any person, including Palm Beach County, aggrieved by any ruling or order of the Nuisance Abatement Board, may seek review by certiorari in the Circuit Court of Palm Beach County. A petition for writ of certiorari shall be filed within thirty (30) days of the date of the written order appealed from. ~~Enforcement of the Board's orders shall be suspended until such time as the Palm Beach County Circuit Court either affirms the Board's order or supersedes the order with one rendered by the Court.~~

SECTION 6. REPEAL OF LAWS IN CONFLICT.

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provision of this Ordinance are hereby repealed to the extent of any such conflict.

SECTION 7. PENALTY.

Any person convicted of violating any portion of this Ordinance shall be punishable as provided by law.

SECTION 8. SAVINGS CLAUSE.

Except as otherwise hereby expressly amended, all other provisions of this Ordinance as originally enacted and amended are specifically preserved and remain in full force and effect.

SECTION 9. SEVERABILITY.

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court to be

unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

SECTION 10. INCLUSION IN CODE OF LAWS AND ORDINANCES.

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 11. EFFECTIVE DATE.

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, on the 19th day of December, 1995.

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

By Burt Aaronson

~~Chairman~~

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

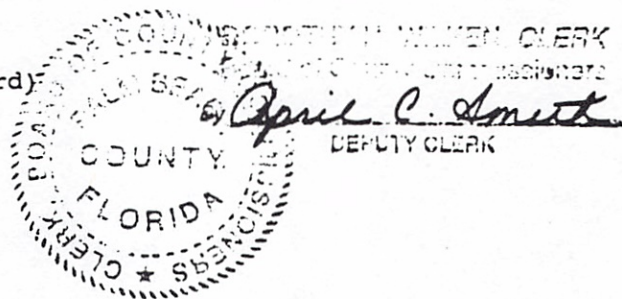
Vice-Chair Burt Aaronson

BY: Deanna B. [Signature]

COUNTY ATTORNEY

EFFECTIVE DATE: Filed with the Department of State on the 28th day of December, 1995.

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STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners, hereby certify to be a
true and correct copy of the original filed in my office
on 12/19/95
DATED West Palm Beach, FL on 1/8/96
DOROTHY H. WILKEN, Clerk
By Phyllis A. House D.C.